

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

<b>IN RE: ETHICON, INC. PELVIC REPAIR</b>	)	
<b>SYSTEM PRODUCTS LIABILITY LITIGATION</b>	)	
	)	<b>MDL NO. 2327</b>
	)	
<b>THIS DOCUMENT RELATES TO:</b>	)	
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**PRETRIAL ORDER # \_\_\_\_\_  
(ORDER APPOINTING HON. GLENN A. NORTON (RETIRED) AS SPECIAL  
MASTER FOR PRIVATE SETTLEMENT AGREEMENTS BETWEEN ETHICON  
AND CERTAIN PLAINTIFFS' COUNSEL)**

Carey Danis & Lowe (collectively, "Plaintiffs' Counsel") has entered into a separate Confidential Settlement Agreement (the "Settlement Agreement") with Ethicon, Inc. and related entities defined by agreement as "Ethicon" to resolve the claims related to the implantation of Ethicon Pelvic Mesh Products (as defined in the Settlement Agreement). Under the provisions of the Settlement Agreement, Plaintiffs' Counsel has agreed to seek the approval of this Court to appoint a Special Master to perform certain defined functions related to the administration and implementation of the Settlement Agreement. Plaintiffs' Counsel believes that Hon. Glenn A. Norton (Ret.) is well-qualified to perform these and other functions discussed below.

Accordingly, Plaintiffs' Counsel request, pursuant to the Court's inherent case management powers, the appointment of Hon. Glenn A. Norton (Ret.) to assist in the administration and implementation of their settlement with Ethicon, with the authority to:

- Determine that the calculation, allocation, division, and distribution of settlement payments among the claimants pursuant to the terms of the Settlement Agreement provides for fair and reasonable compensation for each client based on the facts and circumstances of this litigation, including the risk to all parties of litigation, evidence of

Plaintiffs' injuries and damages, the cost, the time delay, the medical evidence, the science, the compensation circumstances, and the inherent risk of litigation generally;

- Serve as an arbitrator in binding arbitration for any insurance companies or other third-parties who agree in writing with Plaintiffs' Counsel to submit any disputes regarding whether or not health care coverage and reimbursement claims fall within the scope of the litigation and therefore subject to insurance liens or subrogation rights and, if so, the amount of such liens under terms of the applicable agreements between counsel and the insurer;
- Serve as a mediator of claims if jointly requested by Plaintiffs' Counsel and Ethicon; and
- Serve as the final and binding arbitrator on any and all appeals asserted by claimants to the settlement allocation.

Ethicon does not oppose Plaintiffs' Counsel's request. The Court, pursuant to its inherent authority, and having considered the requests, and cognizant of the important public policy of encouraging settlement among litigating parties, hereby issues the following Order.

**IT IS ORDERED THAT:**

1. Hon. Glenn A. Norton (Ret.), 711 North 11th Street, St. Louis, MO 63101, is hereby appointed as the Special Master for the administration of the settlement reached between Plaintiffs' Counsel and Ethicon, related to the implantation of Ethicon Pelvic Mesh Products (as defined in the Settlement Agreement).
2. The duties of the Special Master shall be set forth in the confidential Settlement Agreement entered into between Plaintiffs' Counsel and Ethicon.
3. In furtherance of the fair and efficient administration and implantation of the settlements, the Special Master may have ex parte communications with the parties to the Settlement

Agreement, Plaintiffs' Counsel and their clients, Ethicon and its counsel, or the Court, and such ex parte communications shall not be deemed to have waived any attorney-client privileges.

4. The Special Master shall be compensated privately as specified respectively in the Settlement Agreement or by agreement with Plaintiffs' Counsel.
5. An affidavit by the Special Master has been submitted and is attached hereto as Exhibit A.
6. The curriculum vitae of the Special Master is attached hereto as Exhibit B.
7. The Special Master shall report to the Court as requested by the Court.

The court DIRECTS the Clerk to file a copy of this order in 2:12-md-02327 and it shall apply to each member related case previously transferred to, removed to, or filed in this district *where applicable*, which includes counsel in all member cases where applicable. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at [www.wvsd.uscourts.gov](http://www.wvsd.uscourts.gov).

ENTER: \_\_\_\_\_, 2018

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JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE